IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO.3871 OF 2005

The State of Maharashtra : Applicant

(Orig. Complainant)

V/s.

Raosaheb Kondiba Sakat & Ors. : Respondents

(Orig.Accused Nos.1 to 13)

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Mrs.S.D.Shinde, Addl. Public Prosecutor for the applicant.

Mr.Sandeep S. Salunke for respondent Nos.1 to 7 & 9 to 13.

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CORAM : D.G.DESHPANDE & S.A.BOBDE,JJ.

DATE : JULY 14, 2006.

P.C.

1. This is an application for leave to appeal against the order of acquittal of 13 accused for various offences under sections 143, 147, 148, 149, 326 and 302 of the Indian Penal Code. One Daji died in the incident and four witnesses were injured. But, in spite of this, the Court disbelieved the entire prosecution case that the accused assaulted the four witnesses and all the 13 persons assaulted the deceased Daji with sticks, stones and an axe. Surprisingly enough, in the post-mortem report, only

one injury was found on the person of the deceased. Therefore, the Court disbelieved the entire case relating to the murder.

2. So far as the injuries on the person of the witnesses are concerned, all the injuries were found to be simple injuries of assault and for this reason, the Court disbelieved the prosecution story, because 13 persons were the assailants and the deceased plus the four witnesses were at the receiving end and at least some of the witnesses and the deceased should have sustained serious injuries. Even the recovery of the axe has been found by the Court to be doubtful and in the overall background, no interference is called for. In the circumstances, the only one view regarding the guilt of the accused is, however, not plausible. This situation creates doubt in the mind of the Court and the benefit of doubt was rightly given to the accused.

3. In the result, leave to appeal is refused. The Criminal Application is rejected. The appeal is dismissed.

D.G. DESHPANDE, J.

S.A. BOBDE, J.